

# Montana Area Agencies on Aging Association



August 27, 2020

**TO:** Children, Families, Health, and Human Services Interim Committee  
**FROM:** Adrienne Cotton, Association Director, Montana Area Agencies on Aging  
**RE:** **SB 202 Study and HJR 50 Study Bill Drafts**

Dear Committee members:

The Montana Area Agencies on Aging Association (M4A) appreciates the time and consideration dedicated by the Children, Families, Health and Human Services Interim Committee to the studies of the Uniform Guardianship Law and Senior and Long-Term Care Services. M4A is a private, non-profit organization representing the ten Montana Area Agencies on Aging. Our services support more than 35,000 Montanans and are designed to improve the physical, social, and emotional well-being of older adults and to reduce the burden on families and caregivers.

The proposed legislative changes outlined in SB 202-1 and SB 202-2 begin to address critical reforms within Montana's guardianship laws. Too often, we face cases of severe neglect and abuse of older Montanans whose rights have been limited and opportunities for recourse are nonexistent. It is appropriate and necessary for our statutes to provide authority and safeguards within the court system to ensure individual rights are never restricted unless necessary and to the least degree possible. As the percentage of older Montanans increase, the number of individuals with diminished abilities will also grow and result in larger caseloads for probate courts. M4A believes that proactively addressing weaknesses in the system that provide opportunities for exploitation should remain a high priority for lawmakers.

- **SB 202-1: Consideration of Less Restrictive Alternatives.** Protective services should always be provided in a manner that recognizes independence and dignity of our aging population. The appointment of a guardian can have far reaching and permanent impacts on an individual's ability to manage their lives including the freedom to associate with family or friends, decisions on where to reside, property ownership, and ability to spend funds. By supporting legislation that encourages least restrictive options such as supported decision making, case management, and representative payees, the CFHHS Interim Committee will reduce the likelihood of exploitation and respect ethical interventions for individuals who have often spent a lifetime contributing to our communities.
- **SB 202-2: Revising Monitoring Requirements for Guardians.** The requirement for a written plan for care of an incapacitated person will allow for greater accountability of appointed guardians and may improve the quality of life for those whose circumstances require a guardianship. Person-centered planning allows for individual preferences and values to be considered upon appointment of a guardian and helps to safeguard against unnecessarily restrictive orders.
  - **Consider:** We request that the Committee consider language allowing for confidentiality of written plans. The guardianship program within one of our

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Area Agencies on Aging has struggled under circumstances wherein a ward is removed from the care of family due to severe neglect and abuse and contact is restricted due to mental and physical suffering on behalf of the ward. The current annual reports are public documents that abusers have used to continue mistreatment and manipulation beyond the implementation of protective measures.

We remain supportive of the bill drafts currently under consideration to include:

- **HJR 50-1: Clarifying Requirements for the Medically Needy Program.** We support the aim of increasing the number of individuals eligible for waiver services and access to least restrictive living facilities including assisted living.
- **HJR 50-2: Requiring 30-day Notification Before Termination of Waiver Services.** We support advancing the notice prior to termination of services provided to waiver participants. Many of our clients who participate in the waiver program will benefit by additional days to respond to potential loss of eligibility.
- **HJR 50-3 Requiring Rulemaking for Substantive Changes to Waiver Services.** We support a transparent and public process for substantive changes to the waiver program. While we recognize the need for flexibility within DPHHS to adjust services or eligibility standards, public involvement is crucial to ensuring policies do not inadvertently increase hardships upon participants.
- **HJR 50-4: Establishing Legislative Intent for Waiver Services.** As Montana's leading providers of home and community-based services designed to allow a person to remain in their home, we commend the Committee for their efforts to clarify that individual waiver services or equipment on their own may not contribute to allowing an individual to remain in their community. We agree that collective services reduce the need for institutionalization and provide fiscally responsible solutions.

Thank you for the opportunity to provide feedback on the draft legislation and we look forward to supporting Committee bills that promote independence, dignity, and economic viability for Montana's aging adults. With the population of older Montanans rising at a remarkable rate, your attention is both timely and necessary and we look forward to continuing to work with you in your ongoing support of older adults.

Warm regards,

A handwritten signature in black ink, appearing to read "Adrienne Cotton".

Adrienne Cotton  
M4A Association Director